

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

IN THE MATTER OF:)	
)	
JAMES CHELMOWSKI)	
Complainant)	FILE NO. EB-14-MD-016
)	Docket No. 14-260
v.)	
)	
AT&T MOBILITY LLC)	
Defendant)	
)	
For FCC Violations)	
47 CFR 1.717)	
47 CFR 42.35)	
47 CFR 42.36 &)	
Fraudulent Concealment Scheme)	
)	

MOTION TO COMPEL

Date: February 3, 2015

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

JAMES CHELMOWSKI v. AT&T MOBILITY LLC

FILE NO. EB-14-MD-016 - Docket No. 14-260

Motion to Compel First Interrogatories

NOW COMES the Complainant JAMES CHELMOWSKI his Motion to Compel First Interrogatories against AT&T Mobility LLC ("AT&T") pursuant to 1.724 states as follows:

Ms. Lisa Saks, FCC Deputy Chief, wrote on December 16, 2014 letter to AT&T in Footnote 5 .. The answer and reply still must include comprehensive factual support

Sec. 1.724 Answers (f) The answer shall include an information designation containing:

- (1) The name, address, and position of each individual believed to have firsthand knowledge of the facts alleged with particularity in the answer, along with a description of the facts within any such individual's knowledge;
- (2) A description of all documents, data compilations and tangible things in the defendant's possession, custody, or control, that are relevant to the facts alleged with particularity in the answer. Such description shall include for each document:
 - (i) The date it was prepared, mailed, transmitted, or otherwise disseminated;
 - (ii) The author, preparer, or other source;
 - (iii) The recipient(s) or intended recipient(s);
 - (iv) Its physical location; and
 - (v) A description of its relevance to the matters in dispute.

1. FCC Ms. Saks letter dated December 16, 2014 clearly reiterates comprehensive factual support was required in the answer and reply with no modifications of rules 1.724 (f). AT&T failed to comply and provide a single document per 47 CFR 1.724 rules to support any of AT&T statements of alleged relative facts contain only general denials without supporting factual support. 1.724(b) General denials are prohibited [without factual support].
2. Production of required documents in the first Interrogations are simple and easy for

AT&T to produce. All are relevant to the complaint and AT&T 1.724 answer alleged statement facts. Document of facts in this case are simple AT&T complete 2011 porting documents including rejections details and AT&T case file, AT&T concealment of the 2011 porting rejections from the FCC of the facts giving rise to this claim¹, true reasons for the 2011 porting rejections, AT&T concealment scheme and investigations of the FCC informal complaints with proof of delivery required responses to all parties per FCC 1.717². AT&T failed to produce a single document to support their January 16, 2015 FCC answer. If these documents would support AT&T answers they would have been produced by AT&T. XO, OOMA, NPAC and Neustar subpoena documents contradict every AT&T alleged statement of their facts.

3. FCC formal complaints have specific defined rules for formal and informal complaints.

Including, **FCC Order** DA 11-775 : Released: April 29, 2011 by Nancy Stevenson, Deputy Chief, FCC Consumer Policy Division stated in paragraph #4 failure to provide "proof of delivery is presumed to be a clear and convincing evidence of a violation [47 CFR 1.717]".

AT&T answer stated in paragraph 29 "AT&T responded with copies to Mr. Chelmowski". Ms Stevenson ruled and ordered the FCC statute of limitations clock only begins on the date of her ruling not the events or violations of [47 CFR 1.717]. FCC rules, order and rulings require proof of delivery of these documents to Mr. Chelmowski, without proof of delivery it would be clear and convincing evidence of violations to [47 CFR 1.717] and the fraudulent concealment of AT&T responses to the FCC.

¹ EUCL Order, 17 FCC Rcd at 24222, n.145; Valenti v. AT&T, 12 FCC Rcd at 2621-22, ¶ 24; US Sprint v. AT&T, 9 FCC Rcd at 4802, ¶ 10; Anchorage v. Alascom, 4 FCC Rcd at 2475, ¶ 23; Tele-Valuation v. AT&T, 73 FCC2d at 452-3, ¶ 4 and n.7; U.S. Cablevision v. New York Telephone Co., Memorandum Opinion and Order, 46 FCC 2d 704, 706-7, ¶ 5 (1974) ("Cablevision v. New York Tel"); Bunker Ramo v. Western Union, 31 FCC 2d at 453-4, ¶ 12; Armstrong Utilities v. General Telephone, 25 FCC 2d at 390, ¶ 15.

² Attached Exhibit 1 - **FCC Order** DA 11-775 : Released: April 29, 2011 by Nancy Stevenson, Deputy Chief, FCC Consumer Policy Division stated in paragraph #4 failure to provide "proof of delivery is presumed to be a clear and convincing evidence of a violation (47 CFR 1.717)

4. AT&T answer states "for 2011 porting rejection in March and April 2011, first for an incorrect account number then for an open 2010 XO porting request." AT&T failed to produce a single documents 1.724(f)(2) and/or list of people with firsthand knowledge 1.724(f)(1) apparently because no documents exist to prove AT&T alleged statements or AT&T would have produced these documents.

5. AT&T answer statement acknowledges the requirement for 1.724(f) and knows there was no ruling to modified 1.724(f) this require which in fact was reiterated by Ms. Saks on December 16, 2014. AT&T deceptive answer included "according full discovery"³ which failed to produce the AT&T discovery because it does not contain a single document required of the March and April 2011 AT&T porting rejections. Over twenty (20) AT&T answer paragraphs states alleged facts of the AT&T 2011 porting rejections without a single document required by 1.724(f) and reiterated by FCC Ms. Saks on December 16, 2014 , "the answer and reply must include comprehensive factual support."

6. Without production of any supporting documents required by 1.724(f) reiterated by FCC Ms. Saks December 16, 2014 letter "The answer and reply still must include comprehensive factual support" (if factual support of AT&T alleged facts existed, AT&T would have produced those documents). However AT&T Answer contains without a single required factual support of this main statement:

VI. MR. CHELMOWSKI'S COMPLAINT LACKS MERIT.

29. Even if Mr. Chelmowski's Complaint were properly before the Commission, and for the reasons stated above, it is not, the **evidence included with this Answer, together with his Complaint and Complaint Exhibit**⁴, makes clear that Mr. Chelmowski's allegations should be rejected on the merits. The fact that the 0400 number was never successfully ported is not disputed, but **it is clear that**

³ Reply Exhibits EX-237 to 278.

⁴ No acceptable evidence under FCC 1.724 answer was provided by AT&T to support AT&T alleged facts.

the failure lies with XO Communications⁵, who submitted the incomplete LSR, but failed to either withdraw it or modify it. **There was no “fraudulent concealment.”** Mr. Chelmowski filed numerous complaints (to **the FCC** and IAG) about this **port failure in 2011⁶**, to which **AT&T timely responded with copies to Mr. Chelmowski⁷**.

7. General denials are prohibited [without factual support]. Denials based on information and belief are expressly prohibited unless made in good faith and accompanied by an affidavit explaining the basis for the defendant's belief and why the defendant's belief could not reasonably ascertain the facts from the complainant or any other source. Contained in FCC 47 CFR Section 1.724(b); Averments in a complaint or supplemental complaint filed pursuant to Sec. 1.722 are deemed to be admitted when not denied in the answer.

8. Interrogatories with AT&T opposition and reasons why are needed in this case are in exhibit 2. These interrogatories are essential to this case and these interrogatories should have been produced as AT&T answer required supporting documents under 1.724(f) and FCC ruling dated December 16, 2014. Instead, AT&T answer include no required comprehensive factual support. AT&T claimed comprehensive factual support asked interrogatories and required as comprehensive factual evidence⁸ as irrelevant because it appears AT&T has not one factual support to any of AT&T relevant statements in the January 16, 2015 answer. See details of relevant false statements in January 26, 2015 paragraphs 56 through 76, AT&T false statements with supporting documents to prove these statements as false. False statements on non-relevant material are detailed in paragraphs 77

⁵ AT&T would have this evidence if AT&T statement was true however could not produce required under 1.724 and FCC Ms. Saks 12/13/14 ruling evidence of these alleged statement facts.

⁶ id.

⁷ id. FCC Order DA 11-775 : Released: April 29, 2011 by Nancy Stevenson, Deputy Chief, FCC Consumer Policy Division stated in paragraph #4 failure to provide "proof of delivery is presumed to be a clear and convincing evidence of a violation [47 CFR 1.717]".

⁸ FCC ruling December 16, 2014 and Answer rules 1.724

through 86 and sworn affidavits #1 and #2 (as required under FCC formal complaint rules).

9. AT&T deception of false unrelated personal attacks on Mr. Chelmowski were proven without merit sworn affidavit (with supporting documents) in the January 26, 2015 as required in FCC formal complaint rules. Mr. Chelmowski complied with the FCC rules of providing comprehensive factual support with sworn affidavits, subpoena documents from related third parties, etc in the January 26, 2015 reply as required in FCC December 16, 2014 ruling and FCC section 1.726.

10. WHEREFORE, the Complainant JAMES CHELMOWSKI respectfully requests and prays that an order be entered in his favor and against AT&T as follows:

11. The Complainant prays the FCC deems necessary actions against AT&T's in failure to comply with FCC rule 1.724(j) and reiterated in FCC ruling dated December 16, 2014 failure to produce any acceptable evidence documents and the required comprehensive factual support ordered in December 16, 2014 FCC ruling be redressed by sanctions which the FCC would seem appropriate.

12. The Complainant prays that actions the FCC would seem appropriate including rule 1.724 on general denials and 1.724(d) Averments in a complaint or supplemental complaint filed pursuant to Sec. 1.722 are deemed to be admitted when not denied in the answer [without factual support] by AT&T failure to produce documents in 1.724 and FCC ruling on December 16, 2014 be redressed by sanctions which the FCC would seem appropriate.

13. The Complainant prays that necessary actions against AT&T's actions in failure to comply with FCC first interrogatories and failure to produce these items. AT&T be required to produce these interrogatories items which meets all FCC formal complaint requirements and be redressed by sanctions which the FCC would seem appropriate.

14. And for such other and further equitable relief as the FCC deems fit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Chelmowski". The signature is fluid and cursive, with a long horizontal stroke at the end.

James Chelmowski

Complainant

Dated: February 3, 2015

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CenturyLink)	IC No. 10-S0298078
)	
Complaint Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER

Adopted: April 26, 2011

Released: April 29, 2011

By the Deputy Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaint¹ alleging that CenturyLink changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant in violation of the Commission's rules.² We conclude that CenturyLink's actions violated the Commission's carrier change rules and we grant Complainant's complaint.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).³ Section 258 prohibits the practice of

¹ Informal Complaint No. IC 10-S0298078, filed April 27, 2010.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

³ 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); Third Order on Reconsideration and Second Further Notice of Proposed Rule Making, 18 FCC Rcd 5099 (2003); Order, 18 FCC Rcd 10997 (2003); Fourth Report and Order, 23 FCC Rcd 493 (2008). Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. See, e.g., *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

“slamming,” the submission or execution of an unauthorized change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service.⁴ In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.⁵ Pursuant to Section 258, carriers are absolutely barred from changing a customer’s preferred local or long distance carrier without first complying with one of the Commission’s verification procedures.⁶ Specifically, a carrier must: (1) obtain the subscriber’s written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber’s order.⁷

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.⁸ Where the subscriber has paid charges to the unauthorized carrier, the Commission’s rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.⁹ Carriers should note that our actions in this order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.¹⁰

4. We received Complainant’s complaint on April 27, 2010, alleging that Complainant’s telecommunications service provider had been changed to MCI, Inc. (MCI) without Complainant’s authorization. Pursuant to Sections 1.719 and 64.1150 of our rules,¹¹ we

⁴ 47 U.S.C. § 258(a).

⁵ See 47 C.F.R. § 64.1120.

⁶ 47 U.S.C. § 258(a).

⁷ See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

⁸ See 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

⁹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹⁰ See 47 U.S.C. § 503.

¹¹ 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

notified MCI of the complaint, and Verizon responded on behalf of MCI on July 2, 2010.¹² Based on Verizon's response and pursuant to Sections 1.719 and 64.1150 of our rules,¹³ we notified CenturyLink of the complaint. CenturyLink has failed to respond to the complaint within 30 days.¹⁴ The failure of CenturyLink to respond or provide proof of the verification is presumed to be clear and convincing evidence of a violation.¹⁵ Therefore, we find that CenturyLink's actions resulted in a violation of our carrier change rules and we discuss CenturyLink's liability below.¹⁶ We also will forward a copy of the record of this proceeding to our Enforcement Bureau to determine what additional action may be necessary.

5. CenturyLink must remove all charges incurred for service provided to Complainant for the first thirty days after the alleged unauthorized change in accordance with the Commission's liability rules.¹⁷ We have determined that Complainant is entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and that CenturyLink may not pursue any collection against Complainant for those charges.¹⁸ Any charges imposed by CenturyLink on the subscriber for service provided after this 30-day period shall be paid by the subscriber to their authorized carrier at the rates the subscriber was paying at the time of the unauthorized change.¹⁹

6. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaint filed against CenturyLink IS GRANTED.

7. IT IS FURTHER ORDERED that, pursuant to Section 64.1170(d) of the Commission's rules, 47 C.F.R. § 64.1170(d), Complainant is entitled to absolution for the

¹² Verizon's Response to Informal Complaint No. IC 10-S0298078, received July 2, 2010. MCI and Verizon merged in 2006, but MCI remains a separate entity.

¹³ 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹⁴ Notice of Informal Complaint IC 10-S0298078 was mailed on January 20, 2011. The Commission received the certified mail return receipt confirming delivery was made, and the U.S. Postal "Track and Confirm" system confirms that delivery was made on January 24, 2011.

¹⁵ See 47 C.F.R. § 64.1150(d).

¹⁶ If Complainant is unsatisfied with the resolution of this complaint, Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See 47 C.F.R. § 1.719.

¹⁷ See 47 C.F.R. § 64.1160(b).

¹⁸ See 47 C.F.R. § 64.1160(d).

¹⁹ See 47 C.F.R. §§ 64.1140, 64.1160.

charges incurred during the first thirty days after the unauthorized change occurred and CenturyLink may not pursue any collection against Complainant for those charges.

8. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

JAMES CHELMOWSKI v. AT&T MOBILITY LLC

FILE NO. EB-14-MD-016 - Docket No. 14-260

Interrogatories Reasons to Compel

Details of Interrogations with the follow a) AT&T opposition reasons, b) Reason needed
c) Referred in the Complaint, Answer, Reply, d) Evidence provided from complainant
contradicting AT&T statements, e) AT&T possesses, f) AT&T people involved

1) During the calendar year 2011 how many AT&T PORT REJECTIONS for phone number
847-768-0400 provide all details of the Port Rejections, Port Request, including dates, status,
reasons, etc.

- a) Interrogatory 1 as irrelevant and overbroad.
- b) These porting details are 12 claims of FCC violations and relevant to AT&T defense statements, etc.. Defined scope of the 2011 porting details.
- c) Answer paragraph #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #13, #14, #15, #16, #17, #18, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29 & section title "Information Designations and Exhibits List per Rule 1.724 (f) (g)"
Complaint including paragraphs #6 through #49
- d) XO, OOMA and Neustar sworn subpoena responses Reply exhibits Ex-182 to 236. AT&T exhibit 2 ,OOMA email reason for AT&T first 2011 rejection open work order.
- e) FCC requirements, Neustar stating Reply exhibits Ex182-187. Testified these documents exist and were never produced. Reply paragraph 24.
- f) AT&T porting department, Ms Margaret Trammel, Ms. Baker and AT&T Directors.

2) Who is the author include name and title of the author of the AT&T letter dated September 22,
2011 to the FCC which does not contain an author? FCC informal complainant 11-C00325771-1
and AT&T file number CM20110831_26702265.

- a) Interrogatory 2 as irrelevant.
- b) Not producing #2 would be violating FCC 1.724 (f) (1) The name, address, and position of each individual believed to have firsthand knowledge of the facts alleged with particularity in the answer, along with a description of the facts within any such individual's knowledge. FCC 1.724 (f) (2) (i) The date it was prepared, mailed, transmitted, or otherwise disseminated; (ii) The author, preparer, or other source; No mention of the March and April 2011 porting rejections are in AT&T answer in paragraph 8.¹
- c) Answer included in paragraphs #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #13, #14, #15, #16, #17, #18, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29 & section title "Information Designations and Exhibits List per Rule 1.724 (f) (g)"
Complaint including paragraphs #6 through #49
- d) XO, OOMA and Neustar sworn subpoena responses Reply exhibits Ex-182 to 236. AT&T exhibit 2, OOMA email reason for AT&T first 2011 rejection open work order. No statement for AT&T relayed by OOMA for a incorrect account number or open porting order.
- e) FCC requirements, Neustar stating Reply exhibits Ex182-187. Testified these documents exist and were never produced.
- f) AT&T porting department, Ms Margaret Trammel, Ms. Sheri Baker and AT&T Directors.

3) Name all AT&T employees, AT&T directors, etc involved with any input of the contents of this letter to the FCC dated September 22, 2011? FCC informal complainant 11-C00325771-1 and AT&T file number CM20110831_26702265.

Same as #2

4) AT&T Manager - FCC Appeals Bureau Margaret Trammell's FCC informal investigation 11-C00292341 (Odd finding, AT&T internal case number was omitted in this letter) which lead to the letter to the FCC dated April 11, 2011, how many 2011 AT&T PORTING REJECTIONS occurred prior to 4/11/11 letter, after 4/11/11 and how many are mentioned in her letter?

- a) Interrogatory 4 as irrelevant, overbroad and unduly burdensome.
- b) This AT&T case file address all 14 claims of FCC violations and relevant to AT&T defense statements, etc.. Defined scope of the 2011 porting details.
- c) Answer paragraph #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #13, #14, #15, #16, #17, #18, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29 & section title "Information Designations and Exhibits List per Rule 1.724 (f) (g)"

¹ OOMA subpoena, XO Subpoena January 26, 2015 Reply EX-187 to 236, AT&T January 16, 2015 Answer Paragraph 8, "In March and April of 2011, AT&T received multiple porting requests"

Complaint including paragraphs #6 through #49

- d) XO, OOMA and Neustar sworn subpoena responses Reply exhibits Ex-182 to 236. AT&T exhibit 2, OOMA email reason for AT&T first 2011 rejection open work order. No statement for AT&T relayed by OOMA for a incorrect account number or open porting order.
- e) FCC requirements, Neustar stating Reply exhibits Ex182-187. Testified these documents exist and were never produced.
- f) AT&T porting department, Ms Margaret Trammel, Ms. Baker and AT&T Directors.

5) On AT&T proof of delivery of the FCC informal complaints 11-C00325771 and 11-C00292341 what are the delivery details to the Complainant including date received by complainant, address sent and proof of delivery information?

- a) Interrogatory 5 as irrelevant, overbroad and unduly burdensome.
- b) Reason needed - Claims for violations of 47 CFR 1.717. 1.717 states " The carrier will, within such time as may be prescribed, advise the Commission in writing, with a copy to the complainant, of its satisfaction of the complaint or of its refusal or inability to do so."
- FCC has ruled that documents required in the informal complaint must have a proof of verification of delivery i.e. "Certified Mail" or the defendant is presumed to be in clear and convincing evidence of violating the Informal Complaint 1.717.
- FCC order DA 11-775² released on April 29, 2011 by FCC Nancy A. Stevenson, Deputy Chief, Consumer Policy Division in Paragraph 4 states "failure to respond or provide proof verification is presumed to be clear and convincing evidence of a violation". in Footnote 14 she address what is proof of delivery by stating FCC received the certified mail return receipt confirming delivery was made and the US Postal "Track and Confirm" system confirms the delivery was made.
- c) Referred in the
- d) Evidence provided from complainant contradicting AT&T.
- e) AT&T possesses
- d) AT&T porting department, Ms Margaret Trammel, Ms. Sheri Baker and AT&T Directors.

6) Was the January 2010 porting request which were never accepted by AT&T in 2010 due to incorrect account number for 847-768-0400 was open during 2011 complete time of questioned? Please in the answer include all AT&T documentation including NPAC/Neustar proof with

² Exhibit 1 - FCC Order DA 11-775 : Released: April 29, 2011 by Nancy Stevenson, Deputy Chief, FCC Consumer Policy Division stated in paragraph #4 failure to provide "proof of delivery is presumed to be a clear and convincing evidence of a violation [47 CFR 1.717]".

Neustar transactions codes and AT&T meet all NPAC, FCC and Neustar requirements in the PORTING processing in 2010 and 2011. Provide all Neustar transactions codes for events in 2010 and 2011.

- a) Interrogatory 4 as irrelevant, overbroad and unduly burdensome.
- b) These porting details are 12 claims of FCC violations and relevant to AT&T defense statements, etc.. Defined scope of the 2011 porting details.
- c) Answer paragraph #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #13, #14, #15, #16, #17, #18, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29 & section title "Information Designations and Exhibits List per Rule 1.724 (f) (g)"
Complaint including paragraphs #6 through #49
- d) XO, OOMA and Neustar sworn subpoena responses Reply exhibits Ex-182 to 236. AT&T exhibit 2 ,OOMA email reason for AT&T first 2011 rejection open work order.
- e) FCC requirements, Neustar stating Reply exhibits Ex182-187. Testified these documents exist and were never produced. Reply paragraph 24.
- f) AT&T porting department, Ms Margaret Trammel, Ms. Baker and AT&T Directors.

7) Who and what was the "AT&T Director Review" of the FCC letter writing process in September of 2011 and which AT&T directors were involved on the FCC informal complaint 11-C00325771 and AT&T file number CM20110831_26702265?

- a) Interrogatory 7 as irrelevant.
- b) Not producing #2 would be violating FCC 1.724 (f) (1) The name, address, and position of each individual believed to have firsthand knowledge of the facts alleged with particularity in the answer, along with a description of the facts within any such individual's knowledge. FCC 1.724 (f) (2) (i) The date it was prepared, mailed, transmitted, or otherwise disseminated; (ii) The author, preparer, or other source; No mention of the March and April 2011 porting rejections are in AT&T answer in paragraph 8.³
- c) Answer included in paragraphs #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #13, #14, #15, #16, #17, #18, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29 & section title "Information Designations and Exhibits List per Rule 1.724 (f) (g)"
Complaint including paragraphs #6 through #49
- d) XO, OOMA and Neustar sworn subpoena responses Reply exhibits Ex-182 to 236. AT&T exhibit 2, OOMA email reason for AT&T first 2011 rejection open work order. No statement for AT&T relayed by OOMA for a incorrect account number or open porting order.
- e) FCC requirements, Neustar stating Reply exhibits Ex182-187. Testified these documents exist and were never produced.
- f) AT&T porting department, Ms Margaret Trammel, Ms. Sheri Baker and AT&T

³ OOMA subpoena, XO Subpoena January 26, 2015 Reply EX-187 to 236, AT&T January 16, 2015 Answer Paragraph 8, "In March and April of 2011, AT&T received multiple porting requests"

Directors.

8) In the AT&T September of 2011 thorough investigation which lead to this September 22, 2011 letter to the FCC case 11-C00325771 and AT&T file number CM20110831_26702265, please detail all the events and details contained in the letter relevant issues of the 2011 PORTING REQUESTS, PORTING REJECTIONS, phone calls AT&T logged and verified complainant social security number in March and April of 2011, or really an relevant facts or information during March and April of 2011?

Same as #4.

9) Provide all PORTING transactions and details for the phone numbers 847-768-0000, 847-768-000, 847-917-2384 and 847-768-0400 in the calendar year 2011 for porting requests, porting denials, cancelations, porting firm order commitments?

a) Interrogatory 9 as irrelevant and overbroad.

b) These porting details are 12 claims of FCC violations and relevant to AT&T defense statements, etc.. Defined scope of the 2011 porting details.

c) Answer paragraph #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #13, #14, #15, #16, #17, #18, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29 & section title "Information Designations and Exhibits List per Rule 1.724 (f) (g)"

Complaint including paragraphs #6 through #49

d) XO, OOMA and Neustar sworn subpoena responses Reply exhibits Ex-182 to 236. AT&T exhibit 2 ,OOMA email reason for AT&T first 2011 rejection open work order.

e) FCC requirements, Neustar stating Reply exhibits Ex182-187. Testified these documents exist and were never produced. Reply paragraph 24.

f) AT&T porting department, Ms Margaret Trammel, Ms. Baker and AT&T Directors.

10) Using AT&T SEG advertised able to retrieve single or thousands emails in seconds with complicated search queries, what is the email retrieval count using any derivative James Chelmowski, Jim Chelmowski, phone numbers 847-744-5626, 847-768-0000, 847-768-0400, 847-917-2384, complainant's account numbers and all internal references customer numbers, abbreviations, etc.? Only counts of emails are needed at this time full emails many be required

later.

- a) Interrogatory 10 as irrelevant.
- b) Not producing #2 would be violating FCC 1.724 (f) (1) The name, address, and position of each individual believed to have firsthand knowledge of the facts alleged with particularity in the answer, along with a description of the facts within any such individual's knowledge. FCC 1.724 (f) (2) (i) The date it was prepared, mailed, transmitted, or otherwise disseminated; (ii) The author, preparer, or other source; No mention of the March and April 2011 porting rejections are in AT&T answer in paragraph 8.⁴
- c) Answer included in paragraphs #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #13, #14, #15, #16, #17, #18, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29 & section title "Information Designations and Exhibits List per Rule 1.724 (f) (g)"
Complaint including paragraphs #6 through #49
- d) XO, OOMA and Neustar sworn subpoena responses Reply exhibits Ex-182 to 236. AT&T exhibit 2, OOMA email reason for AT&T first 2011 rejection open work order. No statement for AT&T relayed by OOMA for a incorrect account number or open porting order.
- e) FCC requirements, Neustar stating Reply exhibits Ex182-187. Testified these documents exist and were never produced.
- f) AT&T porting department, Ms Margaret Trammel, Ms. Sheri Baker and AT&T Directors.

⁴ OOMA subpoena, XO Subpoena January 26, 2015 Reply EX-187 to 236, AT&T January 16, 2015 Answer Paragraph 8, "In March and April of 2011, AT&T received multiple porting requests"



AT&T Secure E-Mail Gateway – security as a service

Managing the thousands of e-mail messages that pass through a typical organization's servers every day is an enormous task. Dedicating in-house IT resources to ensure security, availability, and compliance for vast amounts of e-mail traffic is one approach – but doing so diverts these valuable resources from strategic work that advances business goals. Thankfully, there is a better way. With AT&T Secure E-Mail Gateway (SEG), you can:

- Help protect your company against spam, viruses, worms, phishing scams, and other malware threats before they ever reach your network
- Depend on a 60 calendar day rolling e-mail storage for web-based e-mail access during planned and unplanned server outages
- Monitor and act on all outbound e-mail containing content that violates your data loss prevention policies
- Easily utilize e-mail encryption when needed without disruption to end-user workflow
- Economically and efficiently archive every e-mail message to meet document retention requirements

AT&T SEG helps you protect, access, and archive your e-mail with no hardware to buy, no software to install, no backup tapes to mount, and no maintenance to perform.

AT&T Secure E-Mail Gateway Service Overview

AT&T SEG service is a network-based solution that blocks spam, viruses, and other inbound e-mail malware threats before they reach your

network. Just as important as blocking inbound attacks, SEG also gives you the features you need to support outbound e-mail filtering to **help protect your company against loss of sensitive information and potential legal liability**. SEG can also provide message archiving with unlimited storage. And, in the event of unexpected e-mail downtime or disaster, SEG helps address your business continuity needs. AT&T SEG, utilizing technology by McAfee, integrates its e-mail protection capabilities and global threat intelligence into the AT&T Network Gateway nodes to deliver Security as a Service solutions. AT&T SEG is available in a choice of two inbound/outbound service levels (Advanced and Premium). Optional support for message archiving is also available.

AT&T Secure E-Mail Gateway – Advanced

AT&T SEG Advanced service offers far more than traditional spam prevention. It provides complete, multi-layered e-mail filtering protection using a combination of proven spam filters, leading antivirus engines, fraud protection, content filtering, and e-mail attack protection. Our easy-to-administer cloud-based service identifies, quarantines, blocks, and cleans suspect e-mail messages before they can enter or leave your network. This helps shield your network and critical messaging gateways from e-mail attacks, instantly blocking denial of service and other SMTP-based attacks, including directory harvest attacks, e-mail bombs, and channel flooding. If your own e-mail servers become unavailable, your end-users can access their incoming mail through an easy-to-use web interface enabling them to send and receive messages.

Benefits

- Rapid deployment
- No hardware or software to buy, maintain, manage or update
- No encryption certificates/keys to manage
- No up-front capital outlay
- No setup or upgrade fees
- Simple web-based administration and reporting
- 24x7x365 technical trouble support

Features

- In the cloud filtering to block threats before they reach your network
- Advanced spam and fraud protection
- Triple virus and worm scanning to block malware
- Web link scanning blocks messages with links to known malicious websites
- Outbound content scanning on keywords, attachments, regular expressions and registered documents
- End-user transparent encryption
- Disaster recovery spooling and continuity
- **Powerful e-discovery features to retrieve information quickly**
- Full support for industry and regulatory compliance requirements
- Bundled Secure Network Gateway Service that provides simple billing with one contract, one bill and price discounts when purchasing more than one service



AT&T Secure E-Mail Gateway – Premium

AT&T SEG Premium service includes all of the same features as the Advanced service plus enhanced encryption features to help protect enterprises from liabilities associated with privacy and data security regulations such as The Health Insurance Portability and Accountability Act (HIPAA), Gramm-Leach-Bliley Act (GLBA), PCI Compliance, and Securities and Exchange Commission (SEC) rules. SEG Premium service provides a way to utilize e-mail encryption as part of your data loss prevention strategy (DLP). Encryption complexities are completely hidden from end users ensuring ease of use. Your IT Administrator uses a simple web-based administration console to configure encryption and DLP policies and view reports. Data is encrypted using industry-trusted standard PKI (Public Key Infrastructure) and S/MIME technologies for encryption and digital signatures, relying on standard X.509 certificates.

Optional Message Archiving

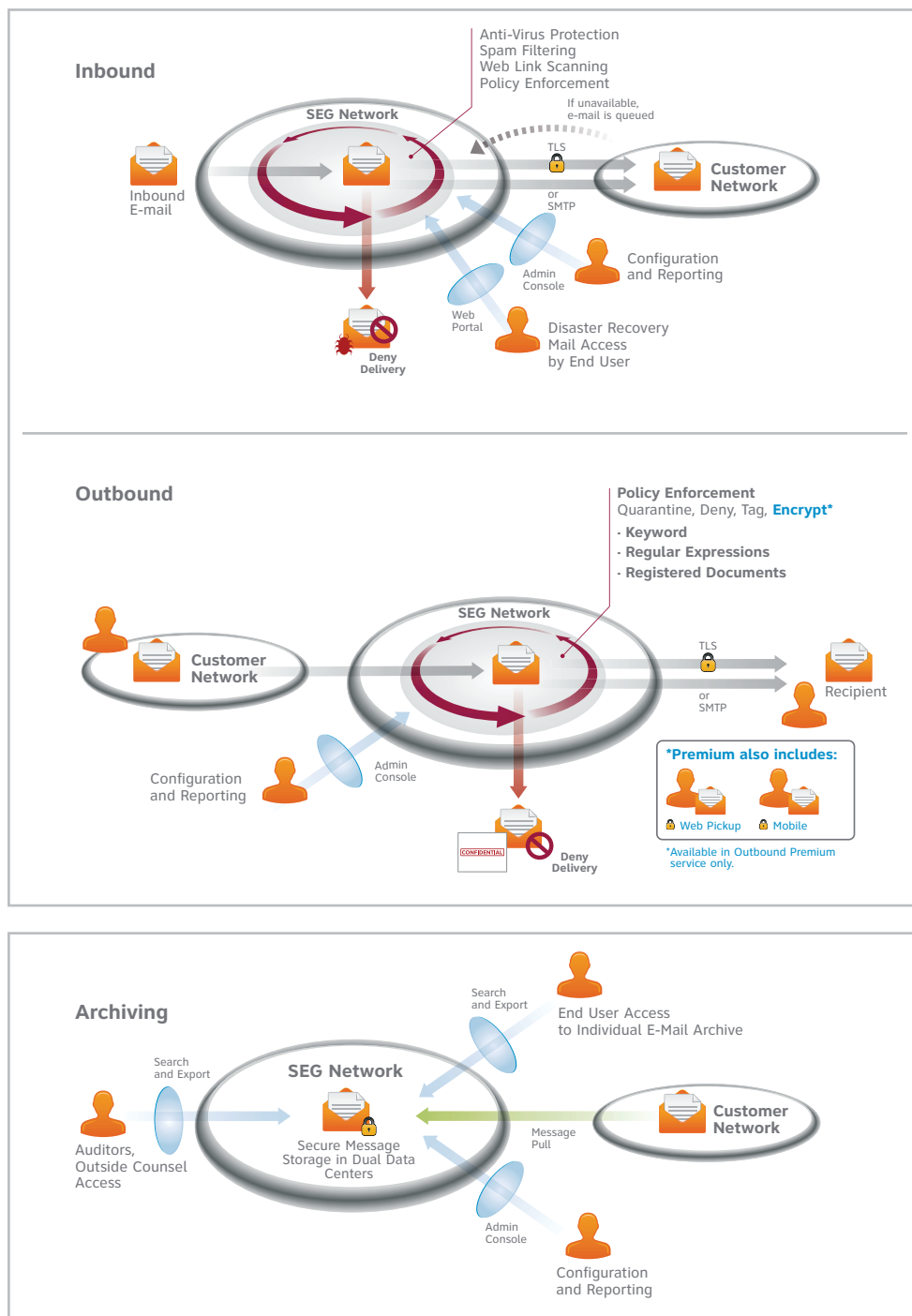
AT&T SEG Message Archiving option takes care of **all your e-mail storage, management, and retrieval needs**, and it supports your requirements without the need to manage backup media and onsite storage. Whether **you need to recover a stored e-mail message in response to an e-discovery request**, to demonstrate compliance, or simply as an accurate record of “who said what to whom,” you want **to produce the message as quickly as possible**. With the Message Archiving option, **you can easily access one message – or thousands of messages – in seconds**, using either **simple or advanced search** criteria, including user, date range, metadata, message content, and even attachment content. The service supports unlimited storage with customer determined retention periods from 30 calendar days to **10 years**. The Message Archiving option can be added to either SEG Advanced or Premium.

With AT&T Secure E-Mail Gateway you get the e-mail security features, and reliability you need, while leaving the filtering infrastructure and network management to us.

AT&T Secure Network Gateway

AT&T Secure Network Gateway service delivers state-of-the-art security features with proactive monitoring and management. We

AT&T Secure E-Mail Gateway



have conveniently packaged and simplified the purchasing, contracting and billing of AT&T Network-Based Firewall Service, AT&T Secure E-mail Gateway Service and

AT&T Web Security Service under one contract and one invoice providing an efficient and cost-effective way to meet your business security needs.

For more information about AT&T Managed Security Services, visit us at www.att.com/security, call us at 877 954-7771 or email us at mss@att.com.



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of February, 2015, a FCC Motion to Compel, served to the defendant AT&T Mobility LLC, by email, (with a copy by first class mail) at the following address:

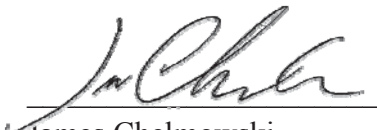
Michael Groggin
AT&T
1120 20th Street NW
Washington, DC 20036
202.457.2055

michael.p.goggin@att.com

Counsel for AT&T Mobility LLC

February 3, 2015

Date

A handwritten signature in black ink, appearing to read 'J. Chelmowski', written over a horizontal line.

James Chelmowski
Complainant